

§ 550.501

the employee's account, unless a waiver of recovery has been approved. Repayment of the indebtedness may be made either in full or in partial payments, as determined by the head of the agency or designated official.

(2) Recovery of indebtedness for advance payment shall not be required when it is determined by the head of the agency or designated official that the recovery would be against equity or good conscience or against the public interest. Findings that formed the basis for waiver of recovery shall be filed in the employee's personnel folder on the permanent side.

(d) For the period or periods covered by any payments made under this subpart, the employee shall be considered as performing active Federal service in his or her position without a break in service.

Subpart E—Pay From More Than One Position

AUTHORITY: 5 U.S.C. 5533.

§ 550.501 Scope.

(a) *Applicability.* (1) This subpart and section 5533 of title 5, United States Code, apply in determining an employee's entitlement to receive pay from more than one position.

(2) This subpart and section 5533(a) of title 5, United States Code, apply only to an employee holding more than one position when the aggregate number of hours worked during a week exceeds 40.

(b) *Coverage.* This subpart and section 5533(a) of title 5, United States Code, apply to each department and agency (including each corporation owned or controlled by the Government of the United States and including non-appropriated fund instrumentalities under the jurisdiction of the armed forces) in the legislative (except as provided in section 5533(c) of that title), judicial, and executive branches of the Government of the United States and to the government of the District of Columbia.

§ 550.502 Definitions.

In this subpart:

Employee means a person holding a position.

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Pay means pay paid for services in a position but excludes fees paid on other than a time basis.

Position has the meaning given that term by section 5531 of title 5, United States Code.

Week means the period of 7 calendar days from Sunday through Saturday.

[33 FR 12458, Sept. 4, 1968, as amended at 60 FR 67287, Dec. 29, 1995]

§ 550.503 Exceptions in emergencies.

Section 5533(a) of title 5, United States Code, does not apply to pay from a position for services performed under emergency conditions relating to health, safety, protection of life or property, or national emergency.

§ 550.504 Other exceptions.

(a) When a department, agency, or the government of the District of Columbia encounters difficulty in obtaining employees to perform required personal services because of section 5533(a) of title 5, United States Code, it may make an exception from that section upon determining that the required services cannot be readily obtained otherwise. The exception shall specify the position(s) to which it applies.

(b) The Office of Personnel Management will publish exceptions of general application.

(5 U.S.C. 1104; Pub. L. 95–454, sec. 3(5))

[44 FR 54694, Sept. 21, 1979, as amended at 66 FR 66711, Dec. 27, 2001]

§ 550.505 Report to OPM.

OPM may require a department, agency, or the government of the District of Columbia to submit a periodic report on its use of the exceptions from section 5533(a) of title 5, United States Code.

[33 FR 12458, Sept. 4, 1968. Redesignated at 37 FR 22717, Oct. 21, 1972]

Subpart F [Reserved]

Subpart G—Severance Pay

AUTHORITY: 5 U.S.C. 5595; E.O. 11257, 3 CFR, 1964–1965 Comp., p. 357.

SOURCE: 55 FR 6593, Feb. 26, 1990, unless otherwise noted.

§ 550.701 Introduction.

This subpart contains regulations of the Office of Personnel Management to implement the provisions of 5 U.S.C. 5595. These regulations authorize severance pay for employees who are involuntarily separated from Federal service and who meet other conditions of eligibility.

§ 550.702 Coverage.

Except as provided in 5 U.S.C. 5595(a)(2) (i) through (viii), this subpart applies to each full-time or part-time employee; that is, an employee with a regularly scheduled tour of duty who is serving under a qualifying appointment, as defined in § 550.703.

§ 550.703 Definitions.

In this subpart:

Agency means an agency as defined in 5 U.S.C. 5595(a)(1), except the government of the District of Columbia.

Commuting area means the geographic area surrounding a work site that encompasses the localities where people live and reasonably can be expected to travel back and forth daily to work, as established by the employing agency based on the generally held expectations of the local community. When an employee's residence is within the standard commuting area for a work site, the work site is within the employee's commuting area. When an employee's residence is outside the standard commuting area for a proposed new work site, the employee's commuting area is deemed to include the expanded area surrounding the employee's residence and including all destinations that can be reached via a commuting trip that is not significantly more burdensome than the current commuting trip. This excludes a commuting trip from a residence where the employee planned to stay only temporarily until he or she could find a more permanent residence closer to his or her work site. For this purpose, a commuting trip to a new work site is considered significantly more burdensome if it would compel the employee to change his or her place of residence in order to continue employment, taking into account commuting time and distance, availability of public transportation, cost, and any other relevant factors.

Employed by the Government of the United States refers to employment by any part of the Government of the United States, including the United States Postal Service and similar independent entities, but excluding enlistment or activation in the armed forces (as defined in 5 U.S.C. 2101).

Employee (for the purpose of establishing initial entitlement to severance pay upon separation) means an employee as defined in 5 U.S.C. 5595(a)(2), excluding an individual employed by the government of the District of Columbia.

(Note to definition of "employee": The term "individual employed" in 5 U.S.C. 5595(a)(2)(A) refers to an "employee" as defined in 5 U.S.C. 2105.)

Immediate annuity means—

(a) A recurring benefit payable under a retirement system applicable to Federal civilian employees or members of the uniformed services that the individual is eligible to receive (disregarding any offset described in § 550.704(b)(5)) at the time of the involuntary separation from civilian service or that begins to accrue within 1 month after such separation, excluding any Social Security retirement benefit; or

(b) A benefit that meets the conditions in paragraph (a) of this definition, except that the benefit begins to accrue more than 1 month after separation solely because the employee elected a later commencing date (such as allowed under § 842.204 of this chapter).

Inefficiency means unacceptable performance or conduct that leads to a separation under part 432 or 752 of this chapter or an equivalent procedure.

Involuntary separation means a separation initiated by an agency against the employee's will and without his or her consent for reasons other than inefficiency, including a separation resulting from the expiration of a time-limited appointment effected within 3 calendar days after separation from a qualifying appointment. In addition, when an employee is separated because he or she declines to accept reassignment outside his or her commuting area, the separation is "involuntary" if the employee's position description or other written agreement does not provide for such a reassignment. However,